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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/958,088	10/27/1997	JOHN S. HENDRICKS	5062	2949

7590 02/11/2004  
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EXAMINER

KOENIG, ANDREW Y

ART UNIT PAPER NUMBER

2611

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

08/958,088

Applicant(s)

HENDRICKS ET AL.

Examiner

Andrew Y Koenig

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 28-73 is/are pending in the application.
- 4a) Of the above claim(s) 28-30, 32-56 and 60-64 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31, 47-49 and 67-79 is/are allowed.
- 6) ☒ Claim(s) 57-59, 65, and 66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 57-59, 65, and 66 have been considered but are moot in view of the new ground(s) of rejection.

The applicant argues that the terms "managing" and "monitoring" are the same; the examiner disagrees.

Monitoring as defined by Webster's Dictionary (shown in exhibit A) and as argued by the applicant as, "to watch, keep track of, or check" is a passive operation wherein the object being "monitored" is not affected in any way by the monitor.

Managing as defined by Webster's Dictionary (shown in exhibit A) and as argued by the applicant as "to exercise executive, administrative, and supervisory direction of..." is an active operation wherein the device managing has some form of power to control over the device being managed. Accordingly, managing requires more than simply watching, keeping track of, or checking in that it necessitates some form of direction giving.

Further, the examiner notes that a system that manages most likely monitors (given a feedback system), but a system that monitors does not necessarily manage. Accordingly, the terms monitoring and managing are not the same as the applicant argues.

### ***Allowable Subject Matter***

Claims 31, 47-49, and 67-79 are allowed.

***Claim Rejections - 35 USC § 112***

2. Claims 57-59 and 65-66 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding independent claim 57, claim 57 recites the limitation of "a serializer, wherein the serializer combines the selected programs or channels into a signal for transmission according to instructions sent by the CPU." There is no disclosure that would enable one, given the current configuration to send instructions from a CPU to the serializer. As shown in figure 9a, there is no connection from the control CPU 90 to permit one to send instructions to the serializer. The serializer appears to receive data from the output gates 158, which receive instructions from FIFO control 154. Therefore, the serializer does not combine according to instructions sent by the CPU, in that it merely processes the received data.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 57-59 and 65-66 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 5,400,401 to Wasilewski et al. (Wasilewski).

Regarding claim 57, Wasilewski teaches a system for distributing services to a plurality of remote locations, such as the configuration as shown in figure 17. The demultiplexers of figure 17 may be identical to those of the service demultiplexer 298 as shown in figure 16 (col. 22, ll. 7-20). Accordingly, Wasilewski teaches a control processor (claimed CPU), figure 16, label 338, contained within the demultiplexer 298 monitors the service selection, manages and sends instructions to enable the demultiplexer receive individual program outputs (fig 17), see col. 20, ll. 26-32, col. 20-21, ll. 58-6. Further, Wasilewski teaches a demultiplexer (fig. 16, label 298), which equates to a digital logic component selecting the desired digital program according the instructions sent from the processor 338 and outputs the program as shown in figure 17. Wasilewski teaches a service multiplexer (fig. 17, label 406), which reads on a serializer. As discussed above, the control processor (338) of the demultiplexer clearly manages and monitors the demultiplexer.

Regarding claim 58, Wasilewski teaches a demultiplexer (298) for separated a multiplexed signal into individual programs (col. 20, ll. 33-36, col. 21, ll. 18-37, fig. 17).

Regarding claim 59, Wasilewski teaches inserting local programming (408) into the multiplexer (claimed serializer) (col. 22, ll. 27-30).

Regarding claim 65, Wasilewski teaches a receiver (402) and a modulator that modulates the combined signal for transmission (col. 22, ll. 30-39).

Regarding claim 66, Wasilewski teaches control signals sent from the control processor (fig. 16, 338, col. 20, ll. 26-32, col. 20-21, ll. 58-6).


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y Koenig whose telephone number is (703) 306-0399. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**VIVEK SRIVASTAVA**  
**PRIMARY EXAMINER**